



Reprinted
February 6, 2002

HOUSE BILL No. 1258

DIGEST OF HB 1258 (Updated February 5, 2002 9:13 PM - DI 84)

Citations Affected: IC 12-15; noncode.

Synopsis: Health facility fee. Authorizes the collection of a licensing fee of \$4 from each health facility for each patient day. Provides that money collected from the fee shall be used for the state Medicaid program.

Effective: Upon passage.

Crawford

(SENATE SPONSORS — MEEKS R, BLADE, SIMPSON)

January 14, 2002, read first time and referred to Committee on Public Health.
January 24, 2002, amended, reported — Do Pass; referred to Committee on Ways and Means per House Rule 127.
January 31, 2002, amended, reported — Do Pass.
February 4, 2002, read second time, ordered engrossed.
February 5, 2002, engrossed. Read third time, recommitted to Committee of One, amended; passed. Yeas 66, nays 27.

C
o
p
y

HB 1258—LS 7097/DI 104+



Reprinted
February 6, 2002

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

HOUSE BILL No. 1258

A BILL FOR AN ACT to amend the Indiana Code concerning Medicaid and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 12-15-14.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]:

4 **Chapter 14.5. Health Facility Fee**

5 **Sec. 1. As used in this chapter, "bed" means an occupied bed in**
6 **a health facility.**

7 **Sec. 2. As used in this chapter, "fee" refers to a fee imposed**
8 **under this chapter.**

9 **Sec. 3. As used in this chapter, "health facility" means a health**
10 **facility that is licenced as a comprehensive care facility under**
11 **IC 16-28.**

12 **Sec. 4. Subject to section 9 of this chapter, a daily fee is imposed**
13 **against a health facility for each day that the health facility is**
14 **operated after June 30, 2002, and before July 1, 2004.**

15 **Sec. 5. The amount of the fee imposed under this chapter is**
16 **equal to the number of beds in a health facility on a particular day**
17 **multiplied by four dollars (\$4).**

HB 1258—LS 7097/DI 104+



C
o
p
y

1 **Sec. 6. The office may determine the manner of payment of the**
 2 **fee.**

3 **Sec. 7. A health facility shall pay a fee to the office not more**
 4 **than thirty (30) days after receiving notice that the payment is due.**

5 **Sec. 8. If a health facility does not pay a fee within the time**
 6 **allowed under section 7 of this chapter, the office may do the**
 7 **following:**

8 **(1) Deduct the amount of the fee from any Medicaid**
 9 **reimbursement otherwise due to the health facility.**

10 **(2) If a health facility is not certified to participate in the**
 11 **Medicaid program, charge interest on the unpaid fees at an**
 12 **annual interest rate determined by the office.**

13 **(3) Impose any other penalty that the office determines is**
 14 **appropriate.**

15 **(4) Take action to collect a fee imposed by this chapter.**

16 **Sec. 9. (a) The fees required by this chapter do not apply to any**
 17 **day before the date designated by the federal government in its**
 18 **approval as the first day that federal financial participation funds**
 19 **may be used to match the fees collected under this chapter.**

20 **(b) If federal financial participation funds to match the fees**
 21 **collected under this chapter become unavailable under federal law,**
 22 **the authority of the office to assess a fee under this chapter**
 23 **terminates on the date that a federal statute, regulation, or**
 24 **interpretation that eliminates matching federal financial**
 25 **participation funds takes effect or the office loses approval for**
 26 **matching federal financial participation funds.**

27 **Sec. 10. Money collected from fees imposed under this chapter**
 28 **shall be used for expenditures of the state Medicaid program.**

29 **Sec. 11. The office may adopt rules under IC 4-22-2 to carry out**
 30 **this chapter.**

31 **Sec. 12. This chapter expires August 1, 2004.**

32 **SECTION 2. [EFFECTIVE UPON PASSAGE] (a) As used in this**
 33 **SECTION, "office" refers to the office of Medicaid policy and**
 34 **planning established by IC 12-8-6-1.**

35 **(b) The office may adopt temporary rules in the manner**
 36 **provided for the adoption of emergency rules under IC 4-22-2-37.1**
 37 **to implement IC 12-15-14.5, as added by this act. A temporary rule**
 38 **adopted under this SECTION expires on the earliest of the**
 39 **following:**

40 **(1) The date that another temporary rule adopted under this**
 41 **SECTION supersedes the prior temporary rule.**

42 **(2) The date that a permanent rule adopted under IC 4-22-2**



C
O
P
Y

1 supersedes a temporary rule adopted under this SECTION.
2 (3) July 1, 2003.
3 (c) The office shall, as soon as practicable, seek approval for
4 federal financial participation funds to match the fees collected
5 under IC 12-15-14.5, as added by this act.
6 SECTION 3. An emergency is declared for this act.

C
o
p
y



COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1258, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning Medicaid and to make an appropriation.

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 5-1-16-37 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 37. If approval by the state department of health is required for the acquisition of health facility property under ~~IC 16-29-1~~, **IC 16-29-1.1**, health facility property may not be financed under this chapter without obtaining approval of the project under ~~IC 16-29-1~~. **IC 16-29-1.1**."

Page 1, delete lines 1 through 5.

Page 2, line 12, delete "shall be used to enhance" and insert "**are appropriated to pay for services under the state Medicaid program**."

Page 2, delete lines 13 through 42, begin a new paragraph and insert:

"SECTION 3. IC 16-18-2-67 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 67. (a) "Comprehensive care bed", for purposes of ~~IC 16-29-1~~, **IC 16-29-1.1**, has the meaning set forth in ~~IC 16-29-1-1~~. **IC 16-29-1.1-1**.

(b) "Comprehensive care bed", for purposes of IC 16-29-2, has the meaning set forth in IC 16-29-2-1.

SECTION 4. IC 16-21-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) Except as provided in ~~IC 16-29-1-11~~, **IC 16-29-1.1-11**, the executive board may, upon recommendation by the state health commissioner and for good cause, waive a rule:

(1) adopted under this chapter; or

(2) that may be waived under IC 16-28 for a specified time for a hospital based health facility or a hospital licensed under this article.

(b) Disapproval of waiver requests requires executive board action.

(c) A waiver may not adversely affect the health, safety, and welfare of the residents or patients.

SECTION 5. IC 16-21-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The state

HB 1258—LS 7097/DI 104+



C
o
p
y

department shall promptly, after receipt of a notice of intent to incur a capital expenditure under ~~IC 16-29-1~~ **IC 16-29.1.1** because of the proposed construction or addition of comprehensive care beds or the proposed conversion of beds to comprehensive care beds, file a copy of this notice with the reports required to be filed under section 3 of this chapter.

(b) The state department also shall file the parts of reports, documents, or correspondence that provide further information regarding proposed capital expenditures and proposed changes in fees or charges related to the proposed capital expenditure with the reports required to be filed under section 3 of this chapter.

SECTION 6. IC 16-28-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. The council shall do the following:

(1) Propose the adoption of rules by the department under IC 4-22-2 governing the following:

(A) Health and sanitation standards necessary to protect the health, safety, security, rights, and welfare of patients.

(B) Qualifications of applicants for licenses issued under this article to assure the proper care of patients.

(C) Operation, maintenance, management, equipment, and construction of facilities required to be licensed under this article if jurisdiction is not vested in any other state agency.

(D) Manner, form, and content of the license, including rules governing disclosure of ownership interests.

(E) Levels of medical staffing and medical services in cooperation with the office of Medicaid policy and planning, division of family and children, and other agencies authorized to pay for the services.

(2) Recommend to the fire prevention and building safety commission fire safety rules necessary to protect the health, safety, security, rights, and welfare of patients.

(3) Classify health facilities in health care categories.

(4) Encourage the development of social and habilitative programs in health facilities, as recommended by the community residential facilities council.

(5) Act as an advisory body for the division, commissioner, and state department.

(6) Adopt rules under IC 4-22-2, as provided in ~~IC 16-29-1-13~~.
IC 16-29-1.1-13.

SECTION 7. IC 16-29-1.1 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE

C
O
P
Y



UPON PASSAGE]:

Chapter 1.1. Health Facility Certificates of Need; Comprehensive Care Beds

Sec. 1. (a) As used in this chapter, "comprehensive care bed" means a bed in a comprehensive care facility that:

- (1) is licensed or is to be licensed under IC 16-28-2; or**
- (2) functions as a bed licensed under IC 16-28-2.**

(b) The term does not include a comprehensive care bed that will be used solely to provide specialized services. The state department shall review applications for a certificate of need for a comprehensive care bed used solely to provide specialized services under IC 16-29-2.

Sec. 2. Except as provided in IC 16-29-2, the Indiana health facilities council shall review the following applications for a certificate of need:

- (1) Applications for comprehensive care beds that are to be certified for participation in a state or federal reimbursement program, including programs under Title XVIII or Title XIX of the Social Security Act (42 U.S.C. 1395 et seq. or 42 U.S.C. 1396 et seq.).**
- (2) Applications to construct or add comprehensive care beds or to convert beds to comprehensive care beds.**

Sec. 3. Except as provided in IC 16-29-2, the Indiana health facilities council shall make a finding based on information prepared by the state department in accordance with IC 16-30 and any other relevant information as to the need for the comprehensive care beds or the certification of comprehensive care beds as requested in the application. The council shall recommend and the state department shall approve a certificate of need for additional comprehensive care beds or the certification of comprehensive care beds only after finding the following:

- (1) Certification or addition of comprehensive care beds in the county is necessary.**
- (2) The applicant for a certificate of need has illustrated or documented the applicant's experience or capacity to provide quality, effective, and efficient care that includes a description of any past or current adverse licensure action against any facility owned, operated, or managed by the applicant.**

Sec. 4. There is a presumption that the certification of the beds is not necessary if, in the county of application:

- (1) the existing utilization rate for all certified comprehensive care beds is less than ninety percent (90%); or**



C
o
p
y

- (2) the addition of the certified beds proposed in the application will reduce the existing utilization rate for all certified comprehensive care beds below ninety percent (90%).

Sec. 5. There is a presumption that additional noncertified beds are not necessary if, in the county of application:

- (1) the existing utilization rate for all noncertified comprehensive beds is less than ninety percent (90%); or
 (2) the addition of the noncertified beds proposed in the application will reduce the existing utilization rate for all noncertified comprehensive beds below ninety percent (90%).

Sec. 6. (a) Except as provided in IC 16-29-2 and IC 16-29-3-1:

- (1) comprehensive care beds may not be constructed or added; and
 (2) beds may not be converted to comprehensive care beds;

without the review and approval required in this chapter.

(b) Comprehensive care beds that are not certified for participation in a state or federal reimbursement program, including programs under Title XVIII or Title XIX of the Social Security Act (42 U.S.C. 1395 et seq. or 42 U.S.C. 1396 et seq.), may not be certified without the review and approval required in this chapter.

(c) The review and approval required in this chapter are a condition to the licensure of the facility.

Sec. 7. A certificate of need for a project to construct, add, or convert beds that receives final approval of the state department under this chapter or IC 16-29-1 (before its repeal) becomes void eighteen (18) months after the determination becomes final unless:

- (1) construction plans for the project are approved by the state department and the department of fire and building safety;
 (2) the applicant has completed construction of the project's foundation in conformity with the approved plans as certified by an independent architect licensed under IC 25-4 or an independent professional engineer licensed under IC 25-31; and
 (3) construction work on the project is continuous and in conformity with the approved plans.

Sec. 8. Notwithstanding sections 1 through 7 of this chapter:

- (1) a health facility may construct a maximum of fifteen (15) comprehensive care beds; or
 (2) a hospital that provides long term care services may

C
o
p
y



construct a maximum of ten (10) comprehensive care beds; that are not to be certified for participation in a state or federal reimbursement program, including programs under Title XVIII or Title XIX of the Social Security Act (42 U.S.C. 1395 et seq. or 42 U.S.C. 1396 et seq.).

Sec. 9. This chapter does not apply to comprehensive care beds that are:

(1) owned, operated, or sponsored by a religious organization that:

(A) is an Indiana nonprofit corporation;

(B) was exempt, by virtue of the religious organization's status as a religious organization, from gross income taxation under IC 6-2.1-3-20 on or before December 31, 2001;

(C) is operated for bona fide religious purposes; and

(D) is not controlled, owned, or operated by a hospital licensed under IC 16-21-2; or

(2) owned or operated by an Indiana nonprofit corporation that is owned by a religious organization described in subdivision (1);

if the comprehensive care beds are used to serve members of the religious organization.

Sec. 10. This chapter does not apply to comprehensive care beds that are owned, operated, or sponsored by a fraternal organization that:

(1) was exempt from gross income taxation under IC 6-2.1-3-21 on or before December 31, 2001; and

(2) owned, operated, or sponsored a health facility licensed under IC 16-28-2 on December 31, 2001;

if the comprehensive care beds are used to serve members of the fraternal organization.

Sec. 11. (a) Except as provided in subsection (b) and section 8(2) of this chapter, beds exempt from review by the Indiana health facilities council under sections 9 and 10 of this chapter may not be sold, leased, or otherwise conveyed to any person for ten (10) years after the date the beds are licensed. Violation of this subsection results in loss of eligibility for participation in state or federal reimbursement programs under Title XVIII or Title XIX of the federal Social Security Act (42 U.S.C. 1395 et seq. or 42 U.S.C. 1396 et seq.).

(b) Subsection (a) does not prohibit the sale, lease, or conveyance of comprehensive care beds described in section 9 of

C
o
p
y



this chapter to another:

- (1) religious organization described in section 9(1) of this chapter; or
- (2) nonprofit corporation that is owned by a religious organization.

However, beds sold, leased, or conveyed under this subsection must be used to serve the members of either the religious organization or the religious organization's nonprofit corporation to whom the beds are conveyed or that conveys the beds.

(c) Subsection (a) does not prohibit the sale, lease, or conveyance of comprehensive care beds described in section 10 of this chapter to another fraternal organization described in section 10 of this chapter. However, beds sold, leased, or conveyed under this subsection must be used to serve members of either the fraternal organization to whom the beds are conveyed or the fraternal organization that conveys the beds.

Sec. 12. The person to whom a certificate of need has been granted, after the review and approval required by this chapter, or under any statute or rule implementing former Section 1122 of the Social Security Act, as amended (42 U.S.C. 1320a-1), is the owner of the certificate of need until the person transfers or alienates the ownership interest in the certificate. Unless the certificate of need expires or is voided, once issued, the certificate of need is the personal property of the owner and is freely transferable or alienable, except that the certificate of need may not be used outside of the county with respect to which the certificate of need was issued.

Sec. 13. The Indiana health facilities council shall adopt rules under IC 4-22-2 to implement this chapter and to establish a reasonable fee for filing and review of an application under this chapter. A rule adopted under this chapter may not be waived. Fees imposed in connection with the certificate of need review under this article are payable to the state department for use in administration of the certificate of need program created by this chapter.

Sec. 14. The Indiana health facilities council shall consider the following when determining whether to recommend the issuance of a certificate of need:

- (1) Information, if available, regarding whether the applicant has provided quality care services.
- (2) The costs the applicant has incurred to provide services.

Sec. 15. A decision of the council under this chapter is subject to



review under IC 4-21.5.

SECTION 8. IC 16-29-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. Notwithstanding ~~IC 16-29-1~~, **IC 16-29-1.1**, a hospital licensed under IC 16-21-2 may convert:

- (1) beginning January 1, 1986, not more than thirty (30) acute care beds to skilled care comprehensive long term care beds; and
- (2) beginning June 1, 1989, not more than an additional twenty (20) acute care beds to either intermediate care comprehensive long term care beds or skilled care comprehensive long term care beds;

that are to be certified for participation in a state or federal reimbursement program, including programs under Title XVIII or Title XIX of the Social Security Act (42 U.S.C. 1395 et seq. or 42 U.S.C. 1396 et seq.), if those beds will function essentially as beds licensed under IC 16-28.

SECTION 9. IC 34-52-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Subject to any other statute governing reimbursement of fees and other expenses, this chapter applies to the reimbursement of the fees and other expenses incurred in preparing for or prosecuting:

- (1) a proceeding under IC 4-21.5-5 to judicially review a final order made by a state agency;
- (2) an appeal from a final determination made by the worker's compensation board;
- (3) an appeal of a final determination made by the department of state revenue; or
- (4) an appeal of a final determination made by the department of workforce development or the department of workforce development unemployment insurance review board.

(b) However, this chapter does not apply to an order or other determination:

- (1) under:
 - (A) IC 16-27-1;
 - (B) IC 16-28;
 - (C) ~~IC 16-29-1~~, **IC 16-29-1.1**;
 - (D) IC 16-30;
 - (E) IC 12-28-4; or
 - (F) IC 12-28-5;
- (2) by an agency described by IC 25-1-8-1; or
- (3) by the board of podiatric medicine.

SECTION 10. [EFFECTIVE UPON PASSAGE] (a)



C
O
P
Y

Notwithstanding IC 16-29-1.1, as added by this act, a health facility (as defined by IC 16-18-2-167) is not required to obtain a certificate of need to construct comprehensive care beds (as defined by IC 16-29-1.1-1, as added by this act) if:

- (1) construction plans for the project are approved by the state department of health and the department of fire and building safety by March 15, 2002;
- (2) the applicant has completed construction of the project's foundation by July 1, 2002, in conformity with the approved plans as certified by an independent architect licensed under IC 25-4 or an independent professional engineer licensed under IC 25-31; and
- (3) construction work on the project is continuous and in conformity with the approved plans.

(b) This SECTION expires July 1, 2004.

SECTION 11. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "commission" refers to the select joint commission on Medicaid oversight established by IC 2-5-26-3.

(b) The select joint commission on Medicaid oversight shall study the occupancy rates of health facilities in Indiana. The study must include the following:

- (1) Whether there is a correlation between occupancy and efficient operation of health facilities.
- (2) The effect of occupancy rates on the state Medicaid program.
- (3) The effect of state action on occupancy rates.
- (4) Methods to increase occupancy rates.

(c) The commission shall invite and consider testimony from the following:

- (1) State agencies.
- (2) Health facilities.
- (3) Consumers.

(d) The commission shall issue a final report before December 1, 2002.

(e) This SECTION expires January 1, 2003."

Page 3, delete line 1.

Page 3, line 29, delete "shall be used" and insert "is appropriated".

Page 3, line 30, delete "to supplement and enhance reimbursement to nursing".

Page 3, line 31, delete "facilities".

Page 3, delete lines 33 through 38.

Page 3, line 39, delete "(g)" and insert "(f)".



C
O
P
Y

Page 3, line 40, delete "shall be expended to" and insert **"is appropriated to pay for"**.

Page 3, delete line 41.

Page 4, line 2, delete "(h)" and insert **"(g)"**.

Page 4, line 10, delete "(i)" and insert **"(h)"**.

Page 6, delete lines 31 through 38, begin a new paragraph and insert:

"SECTION 20. [EFFECTIVE UPON PASSAGE] (a) The state's rate setting contractor shall calculate, using the most recently completed cost reports on file as of May 31, 2002, and notify each health facility of its reimbursement rate under this act not later than August 1, 2002.

(b) Beginning August 1, 2002, the office shall pay Medicaid reimbursement rates as modified by this act.

(c) This SECTION expires July 1, 2007."

Page 7, between lines 21 and 22, begin a new line block indented and insert:

"(5) Any other rule that adjusts Medicaid reimbursement for health facilities that is adopted by the office after September 1, 2001, but before the passage of this act."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1258 as introduced.)

BROWN C, Chair

Committee Vote: yeas 7, nays 5.

C
o
p
y



COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1258, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the committee report of the House committee on public health adopted January 24, 2002.

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning Medicaid and to make an appropriation.

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 1258 as introduced and as amended by the committee report of the House committee on public health adopted January 24, 2002.)

BAUER, Chair

Committee Vote: yeas 21, nays 1.

C
O
P
Y



HOUSE MOTION

Mr. Speaker: I move that House Bill 1258 be recommitted to a Committee of One, its author, with specific instructions to amend as follows:

Page 1, line 10, after "licensed" insert "**as a comprehensive care facility**".

(Reference is to HB 1258 as printed February 1, 2002.)

CRAWFORD

C
o
p
y



COMMITTEE REPORT

Mr. Speaker: Your Committee of One, to which was referred House Bill 1258, begs leave to report that said bill has been amended as directed.

CRAWFORD

C
o
p
y

